

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED: 3/12/15

ELIZABETH MELENDEZ

14 Civ. 0024(LAP)

(In the space above enter the full name(s) of the plaintiff(s).)

AMENDED
COMPLAINT

-against-

The City of New York /
Department of Homeless Services

Jury Trial: ☐ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

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SDNY PRO SE OFFICE
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I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name ELIZABETH MELENDEZ
Street Address 147 B 113 ST #12
County, City JACKSON PARK
State & Zip Code N.Y. 11694
Telephone Number 347-359-8683

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name 1 The City of NY
Street Address 33 Beaven St
County, City NY NY 10006
State & Zip Code NY 10006
Telephone Number _____

Defendant No. 2 Name _____
Street Address _____
County, City _____
State & Zip Code _____
Telephone Number _____

Defendant No. 3 Name _____
Street Address _____
County, City _____
State & Zip Code _____
Telephone Number _____

Defendant No. 4 Name _____
Street Address _____
County, City _____
State & Zip Code _____
Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue?

The right of Freedom and Harassment
with same Discrimination Basis

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. Where did the events giving rise to your claim(s) occur? *These case begins BKK on 10/10 when I was assigned to a city shelter (men shelter)*
- B. What date and approximate time did the events giving rise to your claim(s) occur? *By October 1, 2010 - when the Actal Director, MS Judy Harrison*
Accused me of being racist and be a man
Dress as a woman -
- C. Facts:

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

1st First Director MS. Harrison Begins to Harass me because she claims I am a racist against her own people (AFRICAN AMERICAN)
The Second Director MS. Burnham (Sustitute) For MS. Harrison
Continues with the same pattern of Harassment and treatme different to others -
Client, Staff and Securityes were involved in different kind of situations.
In couple of situation my own Supervision MR. Alexander observe how these issues were function out of line - Also some staff members.

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

I was Hit on my Face By a Client and No Body Did Nothing - no report as far I understood was file by DHS Police.
I had a write up from the ASAW MS. Reeds.

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

I am claim the Right of
Being working without Being Harass.

I would like for the Court to help me
clean my Name and Be compensated
for my Pain and Suffering for the
Amount of money that I will Be losing
when I get the Lawyer -

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 3 day of March, 2015.

Signature of Plaintiff

Mailing Address

147 B 113 St #12

Reckoning Park

NY 11914

Telephone Number

347-359-8683

Fax Number (if you have one)

917 637-7618

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20____, I am delivering this complaint to prison authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: _____

Inmate Number _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELIZABETH MELENDEZ,

Plaintiff,

-against-

THE CITY OF NEW YORK, DEPARTMENT
OF HOMELESS SERVICES; JUDY
HARRISON, DIRECTOR; LEADEN
BURNHAM, DIRECTOR,

Defendants.

14-CV-6024 (LAP)

ORDER TO AMEND

LORETTA A. PRESKA, Chief United States District Judge:

Plaintiff, appearing *pro se*, commenced this action by filing a complaint alleging violation of her constitutional rights. By order dated December 10, 2014, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"). The Court directs Plaintiff to submit an amended complaint within sixty days of the date of this order.

STANDARD OF REVIEW

The Court has the authority to screen *sua sponte* an IFP complaint at any time and must dismiss the complaint, or portion thereof, that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); see *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998). While the law mandates dismissal on any of these grounds, the Court is obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the "strongest [claims] that they suggest," *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474-75 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original).

BACKGROUND

Plaintiff brings this confusing complaint against Defendants, alleging that the basis for federal question jurisdiction is "Discrimination of Race/Gender/Harassment." (*Compl.* at 2.) Plaintiff asserts that the events giving rise to her claim occurred at the 30th Street Men's Shelter, located at 400-401 E. 30th Street, New York, New York. Plaintiff alleges that Defendants Harrison and Burnham have engaged in improper behavior. Plaintiff alleges that Defendants began "numerous of allegations against me." Specifically, Plaintiff asserts that Defendants have called Plaintiff a racist and have stated that Plaintiff is a man dressing as a woman. Plaintiff asserts further that the Department of Homeless Services is aware of the improper behavior and have done nothing to stop it. Plaintiff alleges further that in March 2012, a client did something to her and that nothing was done to help or remedy the situation, and that in March 2014, Plaintiff was escorted out of the building and was humiliated. Plaintiff seeks unspecified monetary damages.

DISCUSSION

A. Rule 8 Pleading Requirements

Rule 8(a)(2) of the Federal Rules of Civil Procedure requires "a short and plain statement of the claim showing that the pleader is entitled to relief," and Rule 8(e)(1) requires that each allegation be "simple, concise, and direct." In a clarification of Rule 8's pleading standard, the Supreme Court held that:

a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A pleading that offers 'labels and conclusion' or 'a formulaic recitation of the

elements of a cause of action will not do.” *Id.* (quoting *Twombly*, 550 U.S. at 555). This plausibility standard applies to all civil actions. *Id.* at 684.

Even read as leniently as possible, Plaintiff’s complaint does not allege any comprehensible claim. Plaintiff has submitted this Court’s general form complaint, which asks a number of questions aimed at assisting Plaintiff in stating her claim. Plaintiff’s allegations are unclear both as to specific claims being made and as to any underlying facts that might support any claim recognized by law.

B. Leave to Amend

Plaintiff is granted leave to amend her complaint to detail her claims. In her statement of claim, Plaintiff must provide a short and plain statement of the relevant facts supporting each claim against each defendant named in the amended complaint. To the greatest extent possible, Plaintiff’s amended complaint must:

- (a) give the names and titles of all relevant persons;
- (b) describe all relevant events, stating the facts that support Plaintiff’s case including what each defendant did or failed to do;
- (c) give the dates and times of each relevant event or, if not known, the approximate date and time of each relevant event;
- (d) give the location where each relevant event occurred;
- (e) describe how each defendant’s acts or omissions violated Plaintiff’s rights and describe the injuries Plaintiff suffered; and
- (f) state what relief Plaintiff seeks from the Court, such as money damages, injunctive relief, or declaratory relief.

Essentially, the body of Plaintiff’s amended complaint must tell the Court: *who* violated her federally protected rights; *what* facts show that her federally protected rights were violated; *when* such violation(s) occurred; *where* such violation(s) occurred; and *why* Plaintiff is entitled

to relief. Plaintiff's amended complaint will completely replace, not supplement, her original complaint.

CONCLUSION

The Court directs the Clerk of Court to assign this matter to my docket, mail a copy of this order to Plaintiff and note service on the docket. Plaintiff is directed to file an amended complaint containing the information specified above. The amended complaint must be submitted to this Court's *Pro Se* Office within sixty days of the date of this order, be captioned as an "**AMENDED COMPLAINT**," and bear the same docket number as this order. An Amended Complaint form, which Plaintiff should complete as specified above, is attached to this order. No summons will issue at this time. If Plaintiff fails to comply within the time allowed, and cannot show good cause to excuse such failure, the complaint will be dismissed for failure to state a claim.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

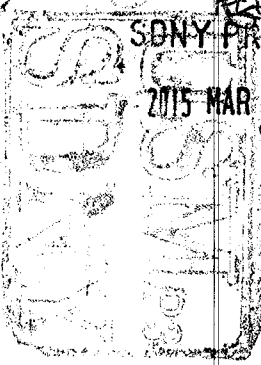
Dated: January 6, 2015
New York, New York



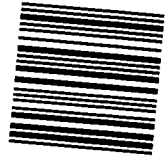
LORETTA A. PRESKA
Chief United States District Judge

Elizabeth Melendez
147 B 113th st
Rockaway Park, NY 11694

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